IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.15037 of 2000

WEDNESDAY, THE THIRTEENTH DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

R. Narayanamma, W/o. R. Rama Raju, Hindu, aged 55 years, R/o. Paparajukandriga Village, Vadamalpet Post & Mandal, Chittoor District, and others.

… Petitioners

And

The District Forest Officer, Chittoor, Chittoor District, and others.

… Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare the action of respondents 1 and 2 in taking steps for eviction of the petitioners, three in number, from their land in an extent of Ac.1.75 cents each in Sy.Nos.258/1, 258/2 and 258/3 respectively, in A.M. Puram Village, Vadamalpet Mandal, Chittoor District as arbitrary

and illegal.

2. In the affidavit filed in support of the Writ Petition, it is stated that on the application of the petitioners, who are landless poor persons, third respondent - Mandal Revenue Officer, Vadamalpet Mandal, granted DKT Pattas to them in respect of the aforesaid land.
It is stated that pursuant to grant of pattas, they were also issued Pattadar passbooks. The case of the petitioners is that after assignment of the said lands in their favour, they have developed those lands and raised Mango garden. Their grievance is that in spite of issuing pattas in their favour, respondents 1 and 2 were taking steps to evict them from the said lands, on the premise that the said land falls within the forest area notified under the Andhra Pradesh Forest Act, 1967 ('the Act' for brevity).

3. Respondents filed counter affidavit admitting that pattas were granted in favour of the petitioners in the year 1996, however, it is stated that those pattas were issued without confirming the status of the land from the Forest Department, as stipulated in the guidelines. It is further stated that the said area falls within the notified reserved forest. It is also stated that subsequently inspection was also made by the Revenue Department and Forest officials on 24-09-2000, and it was confirmed during the said inspection that the land that was assigned to the petitioners falls within the notified reserved forest. The allegation of the petitioners that they raised Mango garden in the land in question has been denied by the respondents. It is stated that Forest Department has carried out plantations from time to time under Joint Forest Management as per the policy of the Government of Andhra Pradesh. It is further stated that the DKT Pattas granted to the petitioners are likely to be cancelled by the Revenue Department.

4. Though petitioners were granted DKT pattas, however in view of the provision under Section 2 (ii) of the Forest (Conservation) Act, 1980 State Government or any other authority is prohibited to use any forest land or a portion thereof for any non-forest purposes. In view of the said provision and the report of the joint inspection, which reveals that the lands in question fall in the reserved notified forest, the very issuance of pattas in favour of the petitioners was *per se* illegal. In that view of the matter, no direction as sought for can be issued. But, at the same time, it is to be seen that petitioners were found to be landless poor persons and were granted pattas by the third respondent. Though the grant of pattas is not in dispute, on the basis of which petitioners are claiming possession of the lands in question, but the same could not have been done by the third respondent without verifying the status of the land as to whether it falls under reserved forest. Though it appears to be a *bona fide* mistake on the part of the third respondent, however, as much as the lands in question fall under the reserved forest area, petitioners are not eligible to continue in possession of the said lands.

5. However, as petitioners have already been found eligible for grant of pattas, I dispose of the Writ Petition permitting the petitioners to make an application to the respondents for grant of any other alternative land in lieu of the land, which was assigned to them earlier. If any such application is received, respondents shall consider the case of the petitioners for grant of pattas in their favour to the extent of land, which was assigned to them previously, in any available Government land.

6. The Writ Petition is disposed of with the above directions. No order as to costs.

JUSTICE R. SUBHASH REDDY.

June 13, 2007
MRR